

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

JIMMIE LIVINGSTON JR.,)
)
)
Plaintiff)
)
)
v.) **No. 2:24-cv-00138-JAW**
)
)
STATE OF MAINE et al.,)
)
)
)
Defendants)

RECOMMENDED DECISION AFTER PRELIMINARY REVIEW

Because I granted Jimmie Livingston Jr.’s application to proceed *in forma pauperis*, *see* Order (ECF No. 4), his complaint (ECF No. 1) is now before me for preliminary review. *See* 28 U.S.C. § 1915(e)(2)(B) (providing that when a party proceeds *in forma pauperis* a court must “dismiss the case at any time if” it determines that the action “is frivolous or malicious[,] . . . fails to state a claim on which relief may be granted,” or “seeks monetary relief against a defendant who is immune from such relief”).

In his complaint, Livingston names the State of Maine and the “U.S. Government” as defendants. *See* Complaint at 1-2. He invokes federal question jurisdiction but cites only the Maine Constitution. *See id.* at 4 (citing Me. Const. art I, §§ 1, 3). His allegations are as follows: “State of Maine has violated my religion by: failure to pay daily wages to live[.] No other God besides mine (Micah 4.) Electronic interference[.] Un-identified aircraft intimidation over me.” *Id.* at 5. He seeks “[\\$]150 million [for] false imprison[ment] using a perversion of bible that caused [his]

slavery here [and] failure to protect property” as well as “\$7,000 for loss of marked mini-van due to ethnic sabotage” and to be “[r]elocated out of the U.S. from all forms of Domestic Terrorists.” *Id.* at 5-6.

Livingston’s complaint does not pass muster. The United States is immune from state constitutional claims. *See Rich v. United States*, 158 F. Supp. 2d 619, 630 (D. Md. 2001) (“Plaintiffs have not shown that the United States has waived its sovereign immunity as to State constitutional claims. . . . When a plaintiff has failed to establish a waiver of sovereign immunity, a federal court lacks jurisdiction to hear the case.”). Maine’s alleged violations of its own constitution do not present a federal question. *See* 28 U.S.C. § 1331 (providing that “district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” (emphasis added)). And even if jurisdiction were proper and the defendants were amenable to suit, Livingston’s complaint is hopelessly vague and has all the hallmarks of being factually frivolous. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (holding that a complaint fails to state a claim when it does not plead “enough facts to state a claim to relief that is plausible on its face”); *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (noting that claims are “factually frivolous” when they are “clearly baseless, a category encompassing allegations that are fanciful, fantastic, and delusional”—i.e., “when the facts alleged rise to the level of the irrational or the wholly incredible” (cleaned up))

For these reasons, I recommend that the Court **DISMISS** Livingston’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B).

NOTICE

A party may file objections to those specified portions of a Magistrate Judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the District Court is sought, together with a supporting memorandum, within fourteen (14) days after being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the District Court and to appeal the District Court's order.

Dated: April 24, 2024

/s/ Karen Frink Wolf
United States Magistrate Judge